

EXHIBIT A: DESCRIPTION OF TRANSACTION AND PUBLIC INTEREST STATEMENT

By this application and contemporaneously filed related applications, Gerald Vento and Thomas Sullivan, the controlling principals of TeleCorp PCS, Inc. ("TPI");¹ TPI; TeleCorp Wireless, Inc. ("TWI") and its direct and indirect subsidiaries TeleCorp PCS, L.L.C. ("TPL"), TeleCorp Holding Corp., Inc. ("THC"), and TeleCorp LMDS, Inc. ("TLI"); TeleCorp Holding Corp. II, L.L.C. ("THC2"); Tritel, Inc. ("Tritel") and its direct and indirect subsidiaries; ABC Wireless, Inc. ("ABC"); Indus, Inc. ("Indus"); Black Label Wireless, Inc. ("Black Label"); Panther Wireless, L.L.C. ("Panther"); PolyCell, Inc. ("PolyCell") and its wholly-owned subsidiary Clinton Communications, Inc. ("Clinton"); and AT&T Wireless PCS, LLC ("AWP") (collectively, "Applicants") seek Commission consent to an interrelated series of transactions that include some pre-merger *pro forma* restructuring, the acquisition by merger of Tritel and Indus, and a series of license swaps by and between THC2, ABC, Panther, PolyCell, Clinton and AWP. As discussed below, the proposed transaction requires the following consents:

TELECORP/TRITEL MERGER RELATED TRANSACTIONS

- Consent to the *pro forma* assignment of the licenses of THC to THC2. For tax reasons, prior to the larger merger THC will be merged into THC2 with THC2 as the surviving entity. This merger will not alter the equity or voting rights over THC and is being done merely to change the form of the entity from a corporation to a limited liability company.
- Consent to the *pro forma* transfer of control of THC2, which will hold designated entity PCS licenses, to add TPI, a holding company controlled by Messrs. Vento and Sullivan, as the new controlling entity of TWI.²
- Consent to the *pro forma* transfer of control of TLI from THC to THC2. For tax reasons, prior to the larger merger THC will be merged into THC2 with THC2 as the surviving

¹ The currently existing TeleCorp PCS, Inc. will be renamed TeleCorp Wireless, Inc., and a newly created merger entity will assume the name TeleCorp PCS, Inc. For ease of reference herein, the newly created entity will be referred to as TeleCorp PCS, Inc. or TPI, and the renamed old TeleCorp PCS, Inc. will be referred to as TeleCorp Wireless, Inc. or TWI.

² Although TPL and a sister company, TeleCorp of Puerto Rico, Inc. ("TPR") hold PCS authorizations, and a separate subsidiary of TWI, TeleCorp Communications, Inc. ("TCI") holds common carrier point-to-point microwave service licenses, those licenses are non-designated entity authorizations and no prior approval is required for a *pro forma* transfer of control of such authorizations. TPI will file appropriate notifications under Section 1.948(c)(1) for the TPL, TPR and TCI authorizations within 30 days of the closing of the proposed transaction.

entity. This merger will not alter the equity or voting rights over THC or TLI and is being done merely to change the form of THC from a corporation to a limited liability company.

- Consent to the *pro forma* transfer of control of TLI, which will be a wholly-owned subsidiary of THC2 that holds designated entity LMDS licenses, to add TPI, a holding company controlled by Messrs. Vento and Sullivan, as the new controlling entity of TWI.
- Consent to the substantive transfer of control of the PCS licensee subsidiaries of Tritel to Messrs. Vento and Sullivan. In effect, Tritel will become a wholly-owned subsidiary of TPI. Tritel's licensee subsidiaries include AirCom PCS, Inc. ("AirCom"); DigiCall, Inc. ("DigiCall"); DigiCom, Inc. ("DigiCom"); QuinCom, Inc. ("QuinCom"); Global PCS, Inc. ("Global"); DigiNet PCS, Inc. ("DigiNet"); ClearWave, Inc. ("ClearWave"); NexCom, Inc. ("NexCom"); and ClearCall, Inc. ("ClearCall"). AirCom, DigiCall, DigiCom, and QuinCom hold designated entity authorizations and the remaining companies, Global, DigiNet, ClearWave, ClearCall and NexCom hold disaggregated and partitioned Block A or Block B PCS licenses.
- Consent to the merger of a designated entity licensee, Indus, Inc. ("Indus"), into Black Label Wireless, Inc. ("Black Label"), which will be a wholly-owned subsidiary of THC2, with Black Label surviving as a wholly-owned subsidiary of THC2.
- In a related spin-off, consent to the substantive assignment of the PCS authorizations of Tritel License—Florida, Inc. ("T-FL") and Tritel License—Georgia, Inc. ("T-GA") to Panther Wireless, L.L.C. ("Panther"), an entity controlled by Messrs. Sullivan and Vento.

LICENSE SWAP RELATED TRANSACTIONS

- Consent to the *pro forma* assignment of certain designated entity PCS authorizations from ABC Wireless, Inc. ("ABC"), which is controlled by Messrs. Vento and Sullivan, to THC2.
- Consent to the substantive assignment of certain designated entity PCS authorizations from PolyCell, Inc. ("PolyCell") and its subsidiary, Clinton Communications, Inc. ("Clinton") to THC2 and ABC.
- Consent to the substantive assignment of certain D and E Block PCS authorizations from AWP to TPL.
- Consent to the substantive assignment of a partitioned and disaggregated A Block PCS spectrum from TPL to AWP.

As discussed below, these proposed transactions are in the public interest. Messrs. Vento and Sullivan are fully qualified to hold control over, or have assigned to the specified subsidiary, the

authorizations in question. Moreover, to the extent that the proposed transactions involve designated entity licenses, the ultimate recipient of the authorizations is fully qualified under the Commission's designated entity rules to hold such licenses. A list of the consents required is provided as Attachment A1.

This exhibit details both the proposed merger transactions and swap transactions in, respectively, Sections I(A), I(B) and I(C) below. Although the proposed transactions do not implicate any spectrum cap issues, an analysis of the overlapping markets is provided in Section II. The competitive justification and public interest benefits are detailed in Section III below. Finally, the unjust enrichment considerations under Section 1.2111 of the Commission's rules and designated entity qualifications issues are discussed in Section III. Based on these submissions, the Commission should find that the proposed transactions are in the public interest, convenience and necessity.

I. Detailed Description of Transactions

The parties anticipate that, if consent is received, these transactions would all be consummated contemporaneously in a single closing. Nonetheless, for ease of description, the transactions are broken out into separate discussions.

A. The TPI/TWI/Tritel Merger

On February 28, 2000, TWI and Tritel signed an agreement, subject to necessary regulatory approvals, whereby Tritel would be acquired by (through a merger with) TWI. Both TWI and Tritel are publicly traded companies, trading respectively under the symbols TLCP and TTEL on the Nasdaq exchange. Conceptually, a company—TPI—will engage in a one-for-one stock swap with TWI. This will make TWI a wholly-owned subsidiary of TPI, and TPI will assume TWI's trading symbol and become the new publicly traded entity post-merger. TWI, through the stock swap, will be controlled by Messrs. Vento and Sullivan. In a simultaneous transaction, TPI will engage in a stock swap with Tritel, and each Tritel shareholder will receive 0.76 shares of the post-merger TPI stock. Tritel will then be a wholly-owned subsidiary of TPI.

At present, the voting and equity rights of TWI are represented by its voting preference stock and its Class A Common Stock, as shown below in Table 1:

| Table 1: TeleCorp Wireless, Inc. Current Ownership | | | |
|--|-------------------|--------------------|----------------|
| Shareholder | Voting Preference | Common | Equity |
| Management Shareholders | | | |
| Gerald Vento | 1,545 | 4,799,771 | 4.68% |
| Thomas Sullivan | 1,545 | 2,937,910 | 2.86% |
| Other Management | | 4,367,350 | 4.26% |
| <i>Total Management:</i> | 3,090 | 12,105,031 | 11.80% |
| Investors | | | |
| CB Capital Investors, L.P. | | 15,548,057 | 15.16% |
| Equity Linked Investors-II | | 14,835,023 | 14.46% |
| Hoak Comm. Partners, L.P. | | 10,974,781 | 10.70% |
| J.H. Whitney III, L.P. | | 9,100,865 | 8.87% |
| Media/Comm. Partners | | 5,923,519 | 5.77% |
| One Liberty Fund | | 2,606,266 | 2.54% |
| Toronto-Dominion | | 1,623,770 | 1.58% |
| Northwood | | 2,034,426 | 1.98% |
| AT&T | | 17,867,453 | 17.42% |
| Other (inc. Publicly Traded) | | 9,955,087 | 9.71% |
| <i>Total Investors:</i> | 0 | 90,469,247 | 88.20% |
| Total TeleCorp Wireless, Inc.: | 3,090 | 102,574,278 | 100.00% |

The TWI voting preference stock represents 50.1 percent of the TWI voting interests, and accordingly, Messrs. Vento and Sullivan have control over TWI. The remaining voting rights are held by the other stockholders in rough proportion to their common equity holdings.³ In the first conceptual phase of the proposed merger, TPI will engage in a one-for-one stock swap with TWI, and therefore the ownership of TPI will be identical to the ownership shown above. This stock swap will replicate both the common stock and voting preference stock, with the TPI voting preference shares representing 50.1 percent of the TPI voting interests. Thus, Messrs. Vento and Sullivan will perpetuate their existing control over TWI through TPI post-merger.

The license interests of THC2 and TLI, which are the subjects of the *pro forma* applications filed with the Commission, are shown below in Tables 2 and 3:

| Table 2: THC2 Authorizations | | | | |
|------------------------------|------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLF391 | Alexandria, LA | BTA009 | C | 1 |
| KNLF392 | Lake Charles, LA | BTA238 | C | 2 |

³ Because the equity holdings reflect combined fully-diluted interests that include multiple classes of common and convertible preferred stock with minor differences in voting rights, the remaining voting rights not held by Messrs. Vento and Sullivan differ in insignificant respects from a pure, *pro rata* distribution by equity.

| Table 2: THC2 Authorizations | | | | |
|------------------------------|--------------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLF393 | Monroe, LA | BTA304 | C | 1 |
| KNLG228 | Beaumont-Port Arthur, TX | BTA034 | F | 0 |
| KNLG906 | Baton Rouge, LA | BTA032 | F | 0 |
| KNLG917 | Hammond, LA | BTA180 | F | 0 |
| KNLG920 | Houma-Thibodaux | BTA195 | F | 0 |
| KNLG921 | Lafayette-New Iberia, LA | BTA236 | F | 0 |
| KNLH626 | Little Rock, AR | BTA257 | F | 0 |
| KNLH628 | Memphis, TN | BTA290 | F | 0 |
| KNLH629 | New Orleans, LA | BTA320 | F | 0 |
| WPOJ822 | Alexandria, LA | BTA009 | C | 2 |
| WPOJ823 | Beaumont-Port Arthur, TX | BTA034 | C | 0 |
| WPOJ824 | Jackson, TN | BTA211 | C | 2 |
| WPOJ825 | San Juan, PR | BTA488 | C | 2 |
| WPOK683 | Houma-Thibodaux, LA | BTA195 | C | 2 |
| WPOK684 | New Orleans, LA | BTA320 | C | 2 |
| WPOL354 | Lake Charles, LA | BTA238 | C | 1 |

| Table 3: TLI Authorizations | | | | |
|-----------------------------|------------------------------|--------|-------|--|
| Call Sign | Market Name | Market | Block | |
| WPOH990 | Baton Rouge, LA | BTA032 | B | |
| WPOH988 | Beaumont-Port Arthur, TX | BTA034 | B | |
| WPOH989 | New Orleans, LA | BTA320 | B | |
| WPOH987 | Orlando, FL | BTA336 | B | |
| WPOH991 | San Juan, PR | BTA488 | B | |
| WPOH992 | Mayaguez-Aguadilla-Ponce, PR | BTA489 | B | |
| WPOH993 | U.S. Virgin Islands | BTA491 | B | |
| WPOH994 | Little Rock | MTA040 | A | |

In the second conceptual phase of the proposed merger, TPI will acquire Tritel by exchanging stock with Tritel at the rate of 0.76 newly issued shares of TPI for each share of Tritel stock. Table 4 below shows the common and voting stock ownership of TWI, Tritel, and the post-merger TPI:

| Table 4: Post Merger TeleCorp PCS, Inc. Ownership | | | | | | |
|---|-------------------|--------------------|--------------------|--------------------|----------------|----------------|
| Shareholder | Voting Preference | TWI Common | Tritel Common | TPI Common | Voting | Equity |
| Management Shareholders | | | | | | |
| Gerald Vento | 1,545 | 4,799,771 | | 4,799,771 | 25.026% | 2.55% |
| Thomas Sullivan | 1,545 | 2,937,910 | | 2,937,910 | 25.026% | 1.56% |
| William Mounger | 3 | | 2,434,804 | 1,850,451 | 0.049% | 0.98% |
| E.B. Martin | | | 2,384,544 | 1,812,253 | | 0.96% |
| Other Management | | 4,367,350 | 11,747,601 | 13,295,527 | | 7.07% |
| <i>Total Management:</i> | <i>3,093</i> | <i>12,105,031</i> | <i>16,566,949</i> | <i>24,695,912</i> | <i>50.100%</i> | <i>11.80%</i> |
| Investors | | | | | | |
| CB Capital Investors, L.P. | | 15,548,057 | | 15,548,057 | | 8.27% |
| Equity Linked Investors-II | | 14,835,023 | | 14,835,023 | | 7.89% |
| Hoak Comm. Partners, L.P. | | 10,974,781 | | 10,974,781 | | 5.84% |
| J.H. Whitney III, L.P. | | 9,100,865 | | 9,100,865 | | 4.84% |
| Media/Comm. Partners | | 5,923,519 | | 5,923,519 | | 3.15% |
| One Liberty Fund | | 2,606,266 | | 2,606,266 | | 1.39% |
| Toronto-Dominion | | 1,623,770 | | 1,623,770 | | 0.86% |
| Northwood | | 2,034,426 | | 2,034,426 | | 1.08% |
| AT&T | | 17,867,453 | 25,881,196 | 46,809,902 | | 24.90% |
| Conseco, Inc. | | | 2,188,709 | 1,663,419 | | 0.88% |
| Dresdener | | | 11,147,761 | 8,472,298 | | 4.51% |
| Truine PCS | | | 9,700,186 | 7,372,141 | | 3.92% |
| South Farm | | | 7,814,486 | 5,939,009 | | 3.16% |
| MF Financial | | | 5,175,746 | 3,933,567 | | 2.09% |
| Other (inc. Publicly Traded) | | 9,955,087 | 21,739,936 | 26,477,438 | | 14.08% |
| <i>Total Investors:</i> | <i>0</i> | <i>90,469,247</i> | <i>83,648,020</i> | <i>163,314,482</i> | | <i>88.20%</i> |
| Total TeleCorp PCS, Inc.: | 3,093 | 102,574,278 | 100,214,969 | 188,010,394 | | 100.00% |

As shown in the table, each share of TWI common stock is duplicated as a single share of TPI common stock. The table also reflects certain newly issued shares of TPI common stock to be granted to AWP. Each share of Tritel common stock is represented as 0.76 of a TPI share. Mr. Mounger will also receive, during this phase, 3 shares each of voting preference stock. However, Messrs. Vento and Sullivan will still hold over 50 percent of the voting preference stock and continue to retain *de jure* and *de facto* control over TWI and TPI.⁴

⁴ Notably, the voting interests shown in Table 4 reflect only voting rights attributable to the voting preference shares and do not reflect additional voting interests held by Messrs. Vento, Sullivan and Mounger as a result of their ownership of additional common shares. Because the voting preference shares held by Messrs. Vento and Sullivan represent over 50 percent of the voting rights, the additional incremental rights afforded through the common stock voting interests are largely irrelevant. The remaining voting rights are distributed in rough proportion to the equity rights of the identified interest holders, but are not an exact *pro rata* distribution for the reasons noted in n.3.

Tritel indirectly holds a number of PCS authorizations. Tritel is the parent entity of Tritel PCS, Inc. ("Tritel PCS"), which, in turn, is the parent of Tritel C/F Holding Co., Inc. ("Tritel C/F") and Tritel A/B Holding Co., Inc. ("Tritel A/B"). Tritel C/F is the parent of AirCom, DigiCall, DigCom, QuinCom, T-FL, and T-GA. Tritel A/B Holding Co., Inc. is the parent of Global, DigiNet, ClearWave, and NexCom. The license interests subject to the proposed transfer of control are shown below in Tables 5-13:⁵

| Table 5: AirCom Authorizations | | | | |
|--------------------------------|----------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLF457 | Montgomery, AL | BTA305 | C | 1 |
| KNLF604 | Anniston, AL | BTA017 | C | 1 |
| KNLF605 | Birmingham, AL | BTA044 | C | 1 |
| KNLF606 | Decatur, AL | BTA108 | C | 1 |
| KNLF607 | Gadsden, AL | BTA158 | C | 1 |
| KNLF608 | Huntsville, AL | BTA198 | C | 1 |
| KNLF609 | Tuscaloosa, AL | BTA450 | C | 1 |

| Table 6: DigiCall Authorizations | | | | |
|----------------------------------|-----------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG908 | Biloxi, MS | BTA042 | F | 0 |
| KNLG918 | Hattiesburg, MS | BTA186 | F | 0 |
| KNLG922 | Laurel, MS | BTA246 | E | 0 |
| KNLG925 | McComb, MS | BTA269 | F | 0 |

| Table 7: DigiCom Authorizations | | | | |
|---------------------------------|-------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG909 | Bowling Green, KY | BTA052 | F | 0 |
| KNLG923 | Louisville, KY | BTA263 | F | 0 |

| Table 8: QuinCom Authorizations | | | | |
|---------------------------------|----------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG912 | Dothan, AL | BTA115 | F | 0 |
| KNLG914 | Florence, AL | BTA146 | F | 0 |
| KNLG927 | Mobile, AL | BTA302 | F | 0 |
| KNLG928 | Montgomery, AL | BTA305 | F | 0 |
| KNLG933 | Selma, AL | BTA415 | F | 0 |

| Table 9: Global Authorization | | | | |
|-------------------------------|----------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI255 | Louisville MTA | MTA026 | A | 2 |

| Table 10: DigiNet Authorization | | | | |
|---------------------------------|---------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI256 | Nashville MTA | MTA043 | B | 2 |

⁵ As discussed below, all of the license interests of T-GA and T-FL are being assigned to Panther and are not shown in these tables. Those assignments are discussed *infra*.

| Table 11: ClearWave Authorization | | | | |
|-----------------------------------|-------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI257 | Jackson MTA | MTA028 | B | 4 |

| Table 12: ClearCall Authorization | | | | |
|-----------------------------------|---------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI258 | Knoxville MTA | MTA044 | A | 4 |

| Table 13: NexCom Authorization | | | | |
|--------------------------------|-------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI259 | Atlanta MTA | MTA011 | A | 2 |

From a control perspective, the existing TWI licensee companies—TPL, THC, TPR, TLI, and TCI—will undergo a *pro forma* change in control resulting from the insertion of TPI in the ownership chain. Ultimate control, which has been with Messrs. Vento and Sullivan, will remain unchanged. For the Tritel licensee entities, the proposed merger represents a substantive transfer of control from Messrs. Mounger and Martin, the controlling shareholders of Tritel, to Messrs. Vento and Sullivan. Structurally, however, the Tritel subsidiaries will remain, for the present time, in their existing configuration.

In this regard, we note that Messrs. Vento and Sullivan had a pre-existing arrangement with Tritel whereby the authorizations of T-FL and T-GA were going to be purchased by Panther. Although Panther is also controlled by Messrs. Vento and Sullivan, Panther is a venture unrelated to TPI. Accordingly, Messrs. Vento and Sullivan have filed a separate application seeking consent to the assignment, from T-FL and T-GA to Panther, of the designated entity authorizations shown below in Tables 14 and 15:

| Table 14: T-FL Authorizations | | | | |
|-------------------------------|-----------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG916 | Gainesville, FL | BTA159 | F | 0 |
| KNLG930 | Panama City, FL | BTA340 | F | 0 |
| KNLG915 | Fort Walton, FL | BTA154 | F | 0 |
| KNLG931 | Pensacola, FL | BTA343 | F | 0 |
| KNLG934 | Tallahassee, FL | BTA439 | F | 0 |

| Table 15: T-GA Authorizations | | | | |
|-------------------------------|---------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG910 | Brunswick, GA | BTA058 | F | 0 |
| KNLG935 | Valdosta, GA | BTA454 | F | 0 |
| KNLG936 | Waycross, GA | BTA467 | F | 0 |

B. Indus, Inc. Merger

In connection with the proposed Tritel merger, TPI will also acquire by merger Indus, Inc. ("Indus"). Indus was formed as a designated entity and currently holds the authorization shown below in Table 17 for Milwaukee, Wisconsin.⁶ Indus is seeking FCC consent to merge with Black Label Wireless, Inc. ("Black Label"), a subsidiary of THC2 and an indirect designated entity subsidiary of TPI. Black Label will be the surviving corporation after Indus/Black Label merger, and will remain a wholly-owned subsidiary of THC2.

| Table 17: Indus Authorization | | | | |
|-------------------------------|---------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLF581 | Milwaukee, WI | BTA297 | C | 0 |

C. The License Swaps

Simultaneous with the merger, TPI will also engage in a concurrent series of license swaps involving two of the TWI subsidiaries, TPL and THC2. For tax reasons, contractual rights to assign these licenses are being passed through an entity to effect a like-kind exchange of assets. Because only the contractual right to have the license assigned to a qualifying entity is being passed through the tax entity and not the licenses themselves, however, the swap transactions are, for FCC purposes, discrete transactions and not two-step assignments. Each transaction is detailed below.

1. ABC Wireless, L.L.C. Assignments

ABC Wireless, L.L.C. ("ABC") was an entity formed by Messrs. Vento and Sullivan, and a third party, Mr. Scott Anderson, to pursue licenses in the PCS C, D, E, and F Block reauction. Each of Messrs. Vento, Sullivan and Anderson hold a 33.3 membership interest in ABC, and therefore each has a 33.3 percent voting and equity interest in ABC. Jointly, Messrs. Vento and Sullivan hold a 66.6 percent controlling interest in ABC, and therefore the assignment of licenses from ABC to THC2, an indirect TPI subsidiary also controlled by Messrs. Vento and Sullivan, is properly considered *pro forma*. The authorizations to be transferred are shown in Table 16 below.

| Table 16: ABC Authorizations | | | | |
|------------------------------|-------------|--------|-------|--|
| Call Sign | Market Name | Market | Block | |

⁶ Because of technical difficulties with its network, Indus has temporarily ceased offering service to the public. As a result of the Commission's forbearance from regulation of CMRS carriers under Section 214 of the Act, Indus was not required to formally notify the Commission or seek approval of the discontinuance. However, Indus informally notified the FCC Wireless Telecommunications Bureau staff of its planned temporary termination and Indus' efforts to facilitate a smooth transition of its then-existing customers to other mobile services providers.

| Table 16: ABC Authorizations | | | | |
|------------------------------|--------------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOK622 | Davenport, IA-Moline, IL | BTA105 | C | 0 |
| WPOK623 | Des Moines, IA | BTA111 | C | 0 |
| WPOK625 | Dubuque, IA | BTA118 | C | 0 |
| WPOK631 | Iowa City, IA | BTA205 | C | 0 |

2. PolyCell, Inc. Assignments to TeleCorp Holding Corp. II, L.L.C.

PolyCell, Inc. ("PolyCell") is a designated entity that holds, directly or indirectly, the C and F Block PCS authorizations shown in Table 18. PolyCell is seeking FCC consent to assign the authorizations shown to THC2, a designated entity subsidiary of TPI. One of the subject authorizations, KNLF769, is held by Clinton Communications, Inc. ("Clinton"), a wholly-owned subsidiary of PolyCell.

| Table 18: PolyCell/Clinton Authorizations | | | | |
|---|--------------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG208 | Burlington, IA | BTA061 | F | 0 |
| KNLF769 | Clinton, IA-Sterling, IL | BTA081 | C | 0 |

3. PolyCell, Inc. Assignments to ABC Wireless, L.L.C.

PolyCell also directly holds the designated entity F Block PCS authorizations shown in Table 19. PolyCell is seeking FCC consent to assign these authorizations to ABC, a designated entity controlled by Messrs. Vento and Sullivan.

| Table 19: PolyCell Authorizations | | | | |
|-----------------------------------|-------------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLH391 | Lincoln, NE | BTA256 | F | 0 |
| KNLH393 | Quincy, IL-Hannibal, MO | BTA367 | F | 0 |

4. TeleCorp PCS, L.L.C. Assignment

TeleCorp PCS, L.L.C. ("TPL") is a wholly-owned subsidiary of TWI. TPL holds the disaggregated and partitioned 20 MHz A Block PCS authorization shown in Table 20. This authorization was originally partitioned and disaggregated from AT&T Wireless PCS, Inc. ("AWPI") in 1997 and subsequently built-out and developed by TPL. TPL now seeks to reassign the authorization back to the successor-in-interest of AWPI, AT&T Wireless PCS, L.L.C. ("AWP"). This partition comprises the Hyannis, MA (BTA201) and Manchester-Nashua-Concord, MA/NH (BTA274) BTAs; Rockingham and Strafford Counties in the Boston, MA BTA (BTA051) and part of Worcester county in the Worcester, MA BTA (BTA480). As a disaggregated partition, TPL had committed to meeting the full build-out for the Boston MTA, an obligation assumed, upon Commission consent and closing, by AWP.

| Table 20: TPL Authorizations | | | | |
|------------------------------|-------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| WPOI214 | Boston-Providence | MTA008 | A | 2 |

5. AT&T Wireless PCS, LLC Assignment

AT&T Wireless PCS, LLC holds the D and E Block PCS authorizations shown in Table 21. The parties seek consent to the substantive assignment of these authorizations to TPL (the two markets designated with an asterisk involve geographic partitioning):

| Table 21: AWP Authorizations | | | | |
|------------------------------|--------------------------|--------|-------|---|
| Call Sign | Market Name | Market | Block | |
| KNLG376 | Appleton-Oshkosh, WI | BTA018 | D | 0 |
| KNLG423 | Escanaba, MI | BTA132 | D | 0 |
| KNLG430 | Fond du Lac, WI | BTA148 | D | 0 |
| KNLG432 | Fort Dodge, IA | BTA150 | D | 0 |
| KNLG439 | Green Bay, WI* | BTA173 | D | 0 |
| KNLG455 | Janesville-Beloit, WI | BTA216 | D | 0 |
| KNLG476 | Madison, WI | BTA272 | D | 0 |
| KNLG477 | Manitowoc, WI | BTA276 | D | 0 |
| KNLG481 | Marquette, MI* | BTA282 | D | 0 |
| KNLG550 | Sheboygan, MI | BTA417 | D | 0 |
| KNLG575 | Waterloo-Cedar Falls, IA | BTA462 | E | 0 |

II. Spectrum Cap Analysis

Because TWI and Tritel operate in largely disjoint areas, the proposed combination of the CMRS holdings of TWI and Tritel does not raise any spectrum cap issues for TPI. As discussed below, a related venture of Messrs. Vento and Sullivan—ABC—does own some spectrum within Tritel's footprint. As shown below, however, the aggregated spectrum holdings of Messrs. Vento and Sullivan, even giving effect to the proposed merger, are fully compliant with Section 20.6 of the Commission's rules. Each overlap between a Tritel entity, a TWI entity, and ABC is shown below:

- In the Chattanooga, TN BTA (BTA076), La Grange, GA BTA (BTA237), and the Opelika, GA BTA (BTA334), NexCom holds 20 MHz of disaggregated A Block spectrum and ABC holds a 15 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 35 MHz of spectrum in these markets.
- In the Dalton, GA BTA (BTA102) and the Rome, GA BTA (BTA384), NexCom holds 20 MHz of disaggregated A Block spectrum and ABC holds a 30 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 50 MHz of spectrum in BTA102. BTA102 lies entirely within CMA371 (Georgia 1 -

Whitfield), which is an RSA where the spectrum cap limit is 55 MHz. BTA384 also lies entirely within CMA373 (Georgia 3 - Chattooga), which is an RSA where the spectrum cap limit is 55 MHz.

- In the McComb-Brookhaven, MS BTA (BTA269), DigiCall holds 10 MHz of F Block spectrum and ABC holds a 30 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 40 MHz of spectrum in BTA269.
- In the Quincy-Hannibal, MS BTA (BTA367), PolyCell holds 10 MHz F Block license and TPL holds 20 MHz of disaggregated A Block spectrum. In combination, Messrs. Vento and Sullivan have an attributable interest in 30 MHz of spectrum.
- In the Corbin, KY BTA (BTA098), Global holds 20 MHz of disaggregated A Block spectrum and ABC holds a 15 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 35 MHz of spectrum.
- In the Bowling Green-Glasgow, KY BTA (BTA052), Madisonville, KY BTA (BTA273), Owensboro, KY BTA (BTA338), and Somerset, KY BTA (BTA423), Global holds 20 MHz of disaggregated A Block spectrum and ABC holds a 30 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 50 MHz of spectrum in these markets. In addition, DigiCom holds a 10 MHz F Block authorization in Bowling Green-Glasgow, KY, so Messrs. Sullivan and Vento have an attributable interest in 60 MHz of spectrum in BTA052.
 - BTA273 lies entirely within CMA444 (Kentucky 2 - Union), which is an RSA where the spectrum cap limit is 55 MHz.
 - BTA423 lies entirely within CMA447 (Kentucky 5 - Barren) and CMA448 (Kentucky 6 - Madison), which are both RSAs where the spectrum cap limit is 55 MHz.
 - BTA338 includes area within both CMA293 (Owensboro, KY MSA) and CMA445 (Kentucky 3 - Meade). While CMA445 is an RSA where the spectrum cap limit is 55 MHz, CMA293 is a one county (Davies) MSA where the spectrum cap limit is only 45 MHz.
 - BTA052 lies entirely within CMA445 (Kentucky 3 - Meade) and CMA447 (Kentucky 5 - Barren), both of which are RSAs where the spectrum cap limit is 55 MHz.

Thus, the attributable spectrum interests of Messrs. Sullivan and Vento exceed the spectrum cap by 5 MHz in the Owensboro, KY MSA and in the Bowling Green BTA. However, the 1990 Census population of Davies county, which constitutes the whole Owensboro KY, MSA, is 87,189. The Bowling Green, KY BTA has a 1990 Census population of only 222,748. Thus, the total overlap area where Messrs. Vento and Sullivan exceed the cap is 309,937. The 1990 Census population of the Global license,

which covers a partitioned part of the Louisville, KY MTA (MTA026), is 2,834,707 and, accordingly, the total overlap is only 10.93% only marginally more than the 10% threshold of Section 20.6.⁷ Moreover, the Global license is one partition of the Louisville-Lexington-Evansville MTA, and the complementary partition is owned by TPL. Viewed as a single disaggregated A Block license, the population of the MTA is 3,556,648, and the overlap is 8.7%, below the relevant threshold for a "significant overlap." Given that TPL could have held a disaggregated authorization for the entire Louisville-Lexington-Evansville MTA, it would be irrational to find that it is impermissible to hold two partitioned licenses which make up the same exact area and spectrum.

- In the Columbus-Starkville, MS BTA (BTA094), Greenville-Greenwood, MS BTA (BTA175), ClearWave holds 20 MHz of disaggregated B Block spectrum and ABC holds a 15 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 35 MHz of spectrum.
- In the Memphis, TN BTA (BTA290), THC holds a 10 MHz F Block license and both ClearWave and TPL hold 20 MHz of partitioned, disaggregated B Block spectrum. However, the ClearWave and TPL partitions are complementary and do not overlap, so TPL has no more than 30 MHz of attributable spectrum in any area.
- In the Natchez, MS BTA (BTA315) and Tupelo-Corinth, MS BTA (BTA449), ClearWave holds 20 MHz of disaggregated A Block spectrum and ABC holds a 30 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 50 MHz of spectrum in these markets. BTA315 lies entirely within CMA457 (Louisiana 4 - Caldwell) and CMA500 (Mississippi 8 - Claiborne), which are both RSAs where the spectrum cap limit is 55 MHz. BTA449 lies entirely within CMA494 (Mississippi 2 - Benton) and CMA496 (Mississippi 4 - Yalobusha), which are both RSAs where the spectrum cap limit is 55 MHz.
- In the Florence, AL BTA (BTA146), QuinCom holds a 10 MHz F Block license and ABC holds a 15 MHz C Block authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 25 MHz of spectrum in BTA146.
- In the Montgomery, AL BTA (BTA305), QuinCom holds a 10 MHz F Block license, ABC holds a 15 MHz C Block authorization, and AirCom holds a 15 MHz C Block

⁷ See, e.g., Western PCS II License Corporation Request for Waiver of Section 20.6 of the Commission's Rules in the Denver MTA, File No. CWD 96-14, 14 FCC Rcd 19,345 (1999) (stating "[i]n determining whether a significant overlap exists, we compare the population in those areas where the licensee has an attributable interest in CMRS spectrum exceeding the applicable spectrum aggregation limit (the 'numerator') with the population of the PCS licensed area (the 'denominator').")

authorization. In combination, Messrs. Vento and Sullivan have an attributable interest in 40 MHz of spectrum in BTA305.

- In the Brunswick, GA BTA (BTA058), ABC has a 15 MHz C Block license and T-GA has a 10 MHz F Block license. T-GA has applied to assign its F Block license to Panther. In any event, however, Messrs. Vento and Sullivan have an attributable interest in 25 MHz of spectrum in BTA058.
- In the Panama City, FL BTA (BTA340) and Tallahassee, FL BTA (BTA439), ABC has a 15 MHz C Block license and T-FL has a 10 MHz F Block license. T-FL has applied to assign its F Block license to Panther. In any event, however, Messrs. Vento and Sullivan have an attributable interest in 25 MHz of spectrum.
- In the Valdosta, GA BTA (BTA454) and Waycross, GA BTA (BTA467), ABC has a 30 MHz C Block license and T-GA has a 10 MHz F Block license. T-GA has applied to assign its F Block license to Panther. In any event, however, Messrs. Vento and Sullivan have an attributable interest in 40 MHz of spectrum in BTA454.
- In the Clarksville, TN-Hopkinsville, KY BTA (BTA083), Cookeville, TN BTA (BTA096), and Nashville, TN BTA (BTA314), ABC has a 15 MHz C Block license and DigiNet has 20 MHz of disaggregated B Block spectrum. In combination, Messrs. Vento and Sullivan have an attributable interest in 35 MHz of spectrum.

III. PUBLIC INTEREST ANALYSIS

The proposed transactions involve a horizontal merger that provides substantial efficiencies of scope and scale without any reduction in competition. At present, TWI and Tritel operate in areas that are largely disjoint and without any significant geographic overlap. Neither Tritel nor TWI wield significant market power within their respective operating areas. Accordingly, TPI does not believe a highly complex Bell Atlantic/NYNEX merger showing should be required. As the Commission recently noted, "for some mergers no inquiry is necessary . . . indeed, the face of some merger applications may reveal that the merger could not frustrate or undermine our policies."⁸ Nonetheless, the parties have made a showing below that the proposed transaction does not implicate any reduction in competition and, moreover, that the proposed

⁸ Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Tele-Communications Inc., Transferor, To AT&T Corp., Transferee, CS Docket No. 98-178, Memorandum Opinion and Order, FCC 99-24, P16 (rel. Feb. 18, 1999) (AT&T/TCI Order) (citing Applications of Bourbeuse Telephone Company and Fidelity Telephone Company for Consent To Assignment of Authority Under Section 214 of the Communications Act, CC Docket No. 98-210, Memorandum Opinion and Order, DA 98-2568 (Common Carrier Bur., rel. Dec. 21, 1998)).

merger provides the companies with increased cost efficiencies that will permit the combined TPI to operate with increased effectiveness as a competitor.

As a preliminary matter, the Commission has noted that the commercial mobile radio service ("CMRS") industry is competitive. The Fourth Annual CMRS Competition Report to Congress, in fact, stated that "[i]n the mobile telephony sector, broadband PCS and digital SMR operators have continued to aggressively deploy their networks[,] . . . result[ing] in improved coverage and increased competition in areas where some level of competition had previously existed."⁹ The *CMRS Report* further observes that "[s]ince the release of the *Third Report*, the mobile telephony sector of CMRS experienced another year of strong growth and competitive development," but noted that "the new entrant network buildout and coverage has not caught up to that of cellular."¹⁰ Thus, it is clear that, while the presence of new entrants like TWI and Tritel, in fact, have enhanced competition in CMRS, these carriers still face significant issues in competing with entrenched carriers.

For comparative purposes, at the end of 1999, TWI boasted 142,231 subscribers and Tritel had 24,600, for a total of 166,831. This is an insignificant proportion of the over 86 million estimated subscribers in the United States and, even on a combined basis, would not even rank TPI within the FCC's list of the top 25 mobile telephone operators by subscribers for the end of 1998, much less the end of 1999. Even by unduplicated broadband POPs, without taking into account build-out status, TWI ranks only as the 24th largest mobile operator in the U.S., and Tritel, which was not listed, would rank as the 25th largest carrier. Thus, by any standard, TPI is not a significant national carrier at this time.

As shown in the spectrum cap analysis, the merging entities' also do not have any market overlap that would constrain competition. At present, TWI operates in the Puerto Rico, New Orleans, Little Rock, Memphis-Jackson, Boston, St. Louis, Houston, and Louisville-Lexington-Evansville MTAs. Tritel operates in the Atlanta, Nashville, Memphis-Jackson, Louisville-Lexington-Evansville, and Knoxville MTAs. Thus, the two entities have an overlapping presence only in the Memphis-Jackson and Louisville-Lexington-Evansville markets. In those markets, however, their operations are complementary and serve different BTAs. Indeed, but for Messrs. Vento and Sullivan's interest in ABC, there would be no overlap whatsoever. Even if ABC were a party to the merger, which it is not, the combined holdings of these companies would still be within the spectrum cap established by the Commission. Because the spectrum cap was established for the purpose of protecting nascent PCS entrants from anticompetitive acquisitions by established carriers, it would be both irrational and contrary to policy to find that a merger of two new PCS entrants that is consistent with the spectrum cap somehow reduces competition.

⁹ Fourth Annual CMRS Competition Report (June 24, 1999) ("*CMRS Report*") at 4-5.

¹⁰ *Id.* at 6.

As noted, this proposed merger involves the acquisition of Tritel by TWI, both new competitors in their respective markets. Both of these entities face substantial competition in their operating territories by both the Block A and Block B cellular telephone carriers, which have been in operation for almost 10 years. TWI and Tritel generally also compete in their markets against other established carriers with national brand names, including VoiceStream, Sprint Spectrum, and Nextel. A partial list of facilities-based competitors in the TWI and Tritel MTAs and principal BTAs alone includes:

| Table 22: TPI Major Market Competitors | |
|--|---|
| MTA | Competitors |
| Atlanta | AirTouch (Cellular) ALLTEL (PCS) BellSouth (Cellular) Nextel (ESMR) Sprint (PCS) PowerTel (PCS) |
| Houston | Bell Atlantic/GTE (PCS) BellSouth (Cellular) Nextel (ESMR) Sprint (PCS) VoiceStream (PCS) |
| Knoxville | Bell Atlantic/GTE (Cellular) BellSouth (PCS) LEAP Wireless (PCS) Nextel (ESMR) PowerTel (PCS) Sprint (PCS) US Cellular (Cellular) |
| Little Rock | ALLTEL (PCS) Century (Cellular) LEAP Wireless (PCS) Nextel (ESMR) SBC (Cellular) Sprint (PCS) VoiceStream (PCS) |
| Louisville-Lexington-Evansville | Bell Atlantic/GTE (Cellular) BellSouth (Cellular) Nextel (ESMR) PowerTel (PCS) Sprint (PCS) |
| Memphis-Jackson | ALLTEL (PCS) Bell Atlantic/GTE (Cellular) BellSouth (Cellular) LEAP Wireless (PCS) Nextel (ESMR) PowerTel (PCS) Sprint (PCS) |
| Nashville | Bell Atlantic/GTE (Cellular) BellSouth (Cellular) LEAP Wireless (PCS) Nextel (ESMR) PowerTel (PCS) Sprint (PCS) VoiceStream (PCS) |

| Table 22: TPI Major Market Competitors | |
|--|---|
| MTA | Competitors |
| New Orleans | BellSouth (Cellular) SBC (Cellular) Bell Atlantic/GTE (PCS) Nextel (ESMR) Sprint (PCS) |
| Puerto Rico | Bell Atlantic/GTE (Cellular/PCS) Centennial (PCS) NewComm/Telefonica (PCS) Nextel (PCS) SBC (Cellular) Sprint (PCS) VoiceStream (PCS) |
| St. Louis | ALLTEL (Cellular) Nextel (ESMR) SBC (Cellular) Sprint (PCS) VoiceStream (PCS) |

Given the lack of overlap between the TWI and Tritel markets, the consistency of the proposed transaction with the CMRS spectrum cap, and the presence of highly effective competitors in the merger territories, TPI submits that the transaction can only promote competition. As present, there is significant duplication within TWI and Tritel in terms of backoffice systems and supporting infrastructure. Operating both of the networks as an integrated system will permit the gradual elimination of redundancy through economies of scope and scale. This, in turn, will lower TPI's overall cost-of-service, allowing it to become a more effective competitor.

IV. Unjust Enrichment Disclosures Under Section 1.2111

This proposed series of transactions is fully consistent with Section 1.2111 of the Commission's rules. All of assignors/transferors obtained their authorizations through competitive bidding, and, accordingly, the parties have attached both the TeleCorp/Tritel merger agreement and swap agreement as required under that rule.¹¹ Given that the transactions propose a number of assignments, or transfers of control, of designated entity licenses, the specific considerations relevant to designated entity qualification and status are discussed below.¹²

¹¹ The documents required under Section 1.2111 have been filed only with the application for the transfer of control of AirCom PCS, Inc. from Tritel, Inc. to TeleCorp PCS, Inc. to avoid duplication.

¹² As discussed below, the assets of TPI and its affiliates are irrelevant for purposes of the entrepreneurial eligibility of its designated entity subsidiaries under Section 24.839. Accordingly, in the FCC Form 603, the applicants have provided a number that represents their net assets at the last time TWI's net assets were calculated, which was prior to the C/D/E/F Block Reauction.

A. THC/THC2/TLI *Pro Forma* Transfers of Control and Assignments

As discussed in Section I, the proposed merger requires Commission consent to the transfer of control of THC2, two transfers of control of TLI, and an assignment of licenses from THC to THC2, all of which are designated entity companies. THC2 and TLI will remain qualified to hold such licenses following the proposed merger transaction. Section 24.839(a) of the Commission's rules states, in pertinent part, that "no . . . transfer of control of a license for frequency Block C or frequency Block F will be granted unless," among other criteria, "[t]he assignment or transfer of control is *pro forma*." In the present case, the proposed transactions are not only *pro forma*, they involve no change to either the voting control over, or equity holders in, THC. No eligibility restrictions apply to the LMDS authorizations of TLI.

Moreover, although the revenues of Messrs. Vento and Sullivan have now exceeded the standards for "very small business" status (their revenues continue to qualify them as a "small business"),¹³ which originally entitled THC and TLI, respectively, to a 25 and 35 percent bidding credit for their licenses, the proposed merger should not implicate any unjust enrichment payments for the THC or TLI licenses. As noted above, while the addition of a new company into the ownership chain of control of THC2 and TLI is technically a *pro forma* transfer of control, no actual change in control results from the proposed transaction. Messrs. Vento and Sullivan are merely creating a new entity that facilitates the merger with Tritel,¹⁴ with no change in their control over the THC and TPL licenses. Indeed, because THC2's equity ownership remains fixed through the use of tracking stock (and because TLI is a subsidiary of THC2), no change to the equity ownership of THC2 or TLI will result from the merger. Under these circumstances, the increase in the attributable revenues of Messrs. Vento and Sullivan should not require unjust enrichment payments by THC or TLI.

¹³ Revenue information for the relevant companies is provided at A2.

¹⁴ Indeed, the proposed merger could have been structured in a manner whereby TPI itself issued new stock to acquire Tritel. In such a case, no *pro forma* transfer of control of THC would even be required. In that case, it is uncontroverted that no unjust enrichment would even be implicated by the transaction at all, since the increased revenues of Messrs. Vento and Sullivan are the result of growth due to the licenses themselves. Given the fact that the result of a merger using TPI versus a merger using a new entity is merely a structural convenience for facilitating the transaction, and given the fact that the net equity and voting ownership of THC would not be different under either scenario, application of any unjust enrichment penalty to THC would elevate form over substance and be irrational as a matter of public policy. Given these circumstances, no unjust enrichment should be applied to the THC licenses. In the event that the FCC would impose an unjust enrichment penalty, the Applicants request a waiver of this rule based upon the inequity of permitting a structural convenience to undermine the Commission's established policies.

B. The Transfer of Control of the Tritel C/F Companies and Transfer of Control/Assignment of Designated Entity Swap Licenses

Tritel, through its intermediary corporations Tritel PCS and Tritel C/F, holds a number of C and F Block licensees, including AirCom, DigiCall, DigiCom, QuinCom, and T-FL (each, a "Tritel DE" and collectively, the "Tritel DEs"). Each of these companies obtained their authorizations while qualifying as "very small businesses" under the designated entity rules. Pursuant to the merger with TWI, control of these entities will be transferred to Messrs. Vento and Sullivan through their control over TPI. TPI will own all of the stock of Tritel, becoming its parent company. The Tritel DEs will, however, continue to qualify as designated entities. In addition, the other transactions contemplate the assignment or transfer of control of designated entity licenses currently held by ABC, Indus, and PolyCell to THC2. Each of these entities obtained its authorizations while qualifying as a "very small business" or "small business."

As an initial matter, Messrs. Vento and Sullivan are authorized to hold designated entity licenses as a qualifying control group. Messrs. Vento and Sullivan hold, indirectly, other designated entity authorizations and were manifestly qualified to receive those licenses when the original grants were made. In the case of the ABC, Indus, and PolyCell assignments and transfers of control, the transactions fit squarely within the exemption to Section 24.839 permitting assignments or transfers of control, during the holding period, to entities that hold "other license(s) for frequency blocks C and F" and satisfied the eligibility criteria "at the time of receipt of such license(s)."¹⁵ THC holds numerous F Block licenses and clearly met the entrepreneurial eligibility criteria at the time it acquired those licenses.

The Tritel DE licenses should be treated no differently. For example, it would be clearly permissible under Section 24.839 to assign directly the Tritel DEs' licenses to THC2 in the merger transaction. And, as previously noted, it would then be fully consistent with Section 24.839 to assign those licenses to another subsidiary controlled by Messrs. Vento and Sullivan, as long as such an assignment was *pro forma*. Because Messrs. Vento and Sullivan could therefore acquire the Tritel DEs indirectly, there should be no issue with permitting them to acquire such entities directly without structural machinations that might create additional burdens on the FCC's application processing resources and potentially result in adverse tax consequences for the TPI companies.

In any event, the equity ownership and control of each Tritel DE is consistent with the designated entity rules. At present, these companies are wholly-owned subsidiaries of Tritel C/F. Tritel C/F is nominally a wholly-owned subsidiary of Tritel PCS, but its equity ownership is held through Tritel tracking stock and differs in some respects from Tritel's ownership. When the stock swap between TPI and Tritel occurs, the two classes of tracking stock issued by Tritel, representing the equity ownership of Tritel C/F, will become tracking stock issued by TPI

¹⁵ 47 C.F.R. § 24.839(d)(2).

representing equity ownership of the same entities. The equity owners of Tritel C/F, therefore, will not change at all as a result of the merger. By virtue of Messrs. Vento and Sullivan's control over TPI, however, Messrs. Vento and Sullivan will necessarily be integrated into the control group of Tritel C/F.

As noted above, the revenues of the TPI control group, Messrs. Vento and Sullivan, have now exceeded the very small business size limitations, but continue to meet the requirements for qualification as a "small business." For the reasons discussed below, however, TPI does not believe unjust enrichment penalties are applicable to the Tritel DE, ABC, Indus, and PolyCell licenses. At a minimum, even if the unjust enrichment penalties are applicable, the Applicants believe the application of those rules should be waived for the reasons given below.

As an initial matter, all of the licenses held by AirCom, the license held by Indus, and one of the licenses held by PolyCell were C Block licenses granted in the original auction where only "small business" bidding credits were available to applicants. Because, as noted above, the control group of Messrs. Sullivan and Vento continue to meet the small business revenue thresholds, no question of "unjust enrichment" should arise concerning these authorizations.

With respect to the remaining Tritel DEs, ABC, and the F Block licenses held by PolyCell, such licensees currently hold their authorizations as "very small businesses" and the installment payments reflect a 25 percent discount on the original bid price of the licenses. However, the Commission's PCS Fifth MO&O states that "under certain circumstances, we will allow licensees to retain their eligibility during the holding period, even if the company has grown beyond our size limitations for . . . small business eligibility."¹⁶ The Commission then went on to state, in pertinent part:

[W]e clarify that between years four and five we will allow licensees to transfer a license to any entity that either holds other entrepreneurs' block licenses (and thus at the time of auction satisfied the entrepreneurs' block criteria) or that satisfies the criteria at the time of transfer. Unjust enrichment penalties . . . apply if these requirements are not met, or if they qualified for different provisions at the time of licensing. For purposes of determining size eligibility for transfers and assignments that occur between the fourth and fifth years, we will use the most recently available audited financial statements in cases where the entity to whom the license is being transferred did not win a license in the original entrepreneurs' block auction.¹⁷

¹⁶ Fifth MO&O at ¶125.

¹⁷ Fifth MO&O at ¶126.

Since the Fifth MO&O, the policies were changed to permit transfers and assignments in years one through three to other entrepreneurs, but in so doing, the Commission stated explicitly that "our unjust enrichment provisions will continue to apply as before."¹⁸ At the same time, the Commission also established the "very small business" tier.

Thus, the "[u]njust enrichment penalties . . . apply if these requirements are not met, or if [the transferee/assignee] qualified for different provisions at the time of licensing."¹⁹ Conversely, then, the unjust enrichment penalties do not apply if "these requirements" are met. In context, "these requirements" are satisfied if an entity "holds other entrepreneurs' block licenses (and thus at the time of auction satisfied the entrepreneurs' block criteria)." This interpretation is bolstered by the Commission's next statement, which states that, for "determin[ations of] size eligibility for transfers and assignments," the Commission "will use the most recently available audited financial statements in cases where the entity to whom the license is being transferred did not win a license in the original entrepreneurs' block auction." In the present case, however, THC did win licenses in the original entrepreneurs' block auction, and therefore the "determination of size eligibility" should consider THC's revenues at the time of the original auction. THC's attributable revenues, at the time of the auction, qualified it as a very small business.

Moreover, the Commission has recognized numerous times, in numerous contexts, that the type of revenue growth at issue in the present case is fundamentally different from the acquisition of a designated entity by a non-designated entity. The Commission has stated that it will "encourage[] designated entities to grow, instead of penalizing them for their success," and stated for example, that "normal projected growth of gross revenues and assets, or growth such as would occur as a result of a control group member's attributable investments appreciating, or

¹⁸ Amendment of Parts 20 and 24, Report and Order, 11 FCC Rcd 7824 (1996) at ¶85.

¹⁹ The Applicants recognizes that the Commission has interpreted this provision in the context of *Omnipoint*, 1999 FCC LEXIS 5666 (November 8, 1999), but the issue in that case was a waiver request by Omnipoint to participate in the reauction with a grandfathered bidding credit. In that case, the FCC stated that Omnipoint concentrated only on the first clause of the Fifth MO&O statement that "[u]njust enrichment penalties . . . apply if these requirements are not met, or if they qualified for different provisions at the time of licensing." Specifically, the FCC noted that Omnipoint "ignor[ed] the remainder of the sentence that clearly states that the provision does not apply in situations where the licensees qualified for different levels of bidding credits," and goes on to note that the Fifth MO&O explicitly states unjust enrichment penalties applied "where the licensees qualified for different levels of bidding credits." These statements, however, are not contradictory to the applicants' position. Specifically, the applicants concede that if THC qualified for different bidding credits than the Tritel DEs, ABC, Indus, and PolyCell, "at the time of licensing," unjust enrichment payments would be required. THC qualified, however, for the same bidding credits as these entities at the time of licensing. The interpretation that grandfathering applied only to entrepreneurial status also would contradict the statement earlier in the Fifth MO&O that "under certain circumstances, we will allow licensees to retain their eligibility during the holding period, even if the company has grown beyond our size limitations for . . . *small business* eligibility." The Fifth MO&O also refers explicitly to assessing "size" eligibility based on revenue data from the time of original licensing, which can only logically refer to "small" or "very small" business entities, not to entrepreneurial eligibility.

as a result of a licensee acquiring additional licenses . . . would not generally jeopardize continued eligibility as an entrepreneurs' block licensee." The entrepreneurial eligibility rule itself, in fact, states specifically that increases in gross revenues or assets as a result of "equity investments from non-attributable investors"; "debt financing"; "revenue from operations or other investments"; or "business development or expanded service" generally *will not* affect the licensee's continued eligibility.²⁰

Under the circumstance, the THC2 assignments/transfers of control and transfers of control to TPI contemplated herein should be permitted without any unjust enrichment penalty.

C. The Assignments from T-FL and T-GA to Panther

As noted in Section I, the parties are also seeking consent to the assignment of six PCS designated entity licenses from T-FL and T-GA to Panther. Panther, as an entity controlled by Messrs. Vento and Sullivan, is plainly qualified to hold such licenses for the reasons given above. However, because Panther was not in existence for the original auction of these authorizations, the parties concede that unjust enrichment payments will be necessary to consummate the assignments. T-FL and T-GA hold their licenses as "very small businesses" and Panther, at the present time, qualifies only for "small business" status.

V. CONCLUSION

²⁰ 47 C.F.R. § 24.709(a)(3). While those criteria apply to continued entrepreneurial eligibility, the Commission also used identical criteria in the unjust enrichment rule related to installment payments, stating "If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval. A licensee's (or other attributable entity's) increased gross revenues or increased total assets due to nonattributable equity investments, debt financing, revenue from operations or other investments, business development or expanded service shall not be considered to result in the licensee losing eligibility for installment payments." 47 C.F.R. §1.2111(c)(2).

For the foregoing reasons, the Applicants hereby request the Commission grant its consent to the proposed transactions as in the public, convenience, and necessity.

ATTACHMENT A1: REQUIRED APPLICATIONS

1. Application for the *pro forma* assignment of KNLF391, Alexandria, LA, BTA009 (C Block); KNLF392, Lake Charles, LA, BTA238 (C Block); KNLF393, Monroe, LA, BTA304 (C Block); KNLG228, Beaumont-Port Arthur, TX, BTA034 (F Block); KNLG906, Baton Rouge, LA, BTA032 (F Block); KNLG917, Hammond, LA, BTA180 (F Block); KNLG920, Houma-Thibodaux, BTA195 (F Block); KNLG921, Lafayette-New Iberia, LA, BTA236 (F Block); KNLH626, Little Rock, AR, BTA257 (F Block); KNLH628, Memphis, TN, BTA290 (F Block); KNLH629, New Orleans, LA, BTA320 (F Block); WPOJ822, Alexandria, LA, BTA009 (C Block); WPOJ823, Beaumont-Port Arthur, TX, BTA034 (C Block); WPOJ824, Jackson, TN, BTA211 (C Block); WPOJ825, San Juan, PR, BTA488 (C Block); WPOK683, Houma-Thibodaux, LA, BTA195 (C Block); WPOK684, New Orleans, LA, BTA320 (C Block) from TeleCorp Holding Corp., Inc. to TeleCorp Holding Corp. II, L.L.C.
2. Application for the *pro forma* assignment of WPOL354, Lake Charles, LA, BTA238 (C Block); from TeleCorp Holding Corp., Inc. to TeleCorp Holding Corp. II, L.L.C. (PAPER FILING)
3. Application for the *pro forma* transfer of control of TeleCorp Holding Corp. II, L.L.C. from TeleCorp Wireless, Inc. to TeleCorp PCS, Inc. (PAPER FILING)
4. Application for the *pro forma* transfer of control of TeleCorp LMDS, Inc. from TeleCorp Holding Corp., Inc. to TeleCorp Holding Corp. II, L.L.C.
5. Application for the *pro forma* transfer of control of TeleCorp LMDS, Inc. from TeleCorp Wireless, Inc. to TeleCorp PCS, Inc.
6. Application for the transfer of control of AirCom PCS, Inc. from Tritel, Inc. to TeleCorp PCS, Inc. (C Block)
7. Application for the transfer of control of DigiCall, Inc. from Tritel, Inc. to TeleCorp PCS, Inc. (F Block)
8. Application for the transfer of control of DigiCom, Inc. from Tritel, Inc. to TeleCorp PCS, Inc. (F Block)
9. Application for the transfer of control of QuinCom, Inc. from Tritel, Inc. to TeleCorp PCS, Inc. (F Block)
10. Application for the transfer of control of Global PCS, Inc. from Tritel, Inc. to TeleCorp PCS, Inc.

11. Application for the transfer of control of DigiNet PCS, Inc. from Tritel, Inc. to TeleCorp PCS, Inc.
12. Application for the transfer of control of ClearWave, Inc. from Tritel, Inc. to TeleCorp PCS, Inc.
13. Application for the transfer of control of NexCom, Inc. from Tritel, Inc. to TeleCorp PCS, Inc.
14. Application for the transfer of control of ClearCall, Inc. from Tritel, Inc. to TeleCorp PCS, Inc.
15. Application for the assignment of KNLF581, Milwaukee, WI, BTA297 (C Block) from Indus, Inc. to Black Label Wireless, Inc.
16. Application for assignment of KNLG916, Gainesville, FL, BTA159 (F Block); KNLG930, Panama City, FL, BTA340 (F Block); KNLG915, Fort Walton, FL, BTA154 (F Block); KNLG931, Pensacola, FL, BTA343 (F Block); and KNLG934, Tallahassee, FL, BTA439 (F Block); from Tritel License—Florida, Inc. to Panther Wireless, L.L.C. (PAPER FILING)
17. Application for assignment of KNLG910, Brunswick, GA, BTA058 (F Block); KNLG935, Valdosta, GA, BTA454 (F Block); and KNLG936, Waycross, GA, BTA467 (F Block) from Tritel License—Georgia, Inc. to Panther Wireless, L.L.C. (PAPER FILING)
18. Application for the *pro forma* assignment of WPOK622, Davenport, IA-Moline, IL, BTA105 (C Block); WPOK623, Des Moines, IA, BTA111 (C Block); WPOK625, Dubuque, IA, BTA118 (C Block); and WPOK631, Iowa City, IA, BTA205 (C Block) from ABC Wireless, Inc. to TeleCorp Holding Corp. II, L.L.C.
19. Application for the assignment of KNLG208, Burlington, IA, BTA061 (F Block) from PolyCell, Inc. to TeleCorp Holding Corp. II, L.L.C.
20. Application for the assignment of KNLF769, Clinton, IA-Sterling, IL, BTA081 (C Block) from Clinton Communications, Inc. to TeleCorp Holding Corp. II, L.L.C.
21. Application for the assignment of KNLH391, Lincoln, NE, BTA256 (F Block) and KNLH393, Quincy, IL-Hannibal, MO, BTA367 (F Block) from PolyCell, Inc. to ABC Wireless, Inc.
22. Application for the assignment of KNLG376, Appleton-Oshkosh, WI, BTA018; KNLG423, Escanaba, MI, BTA132; KNLG430, Fond du Lac, WI, BTA148; KNLG432, Fort Dodge, IA, BTA150; KNLG455, Janesville-Beloit, WI, BTA216; KNLG476, Madison, WI, BTA272; KNLG477, Manitowoc, WI, BTA276; KNLG550, Sheboygan, MI, BTA417; and KNLG575,

Waterloo-Cedar Falls, IA, BTA462 from AT&T Wireless PCS, L.L.C. to TeleCorp PCS, L.L.C.

23. Application for the partial assignment of KNLG439, Green Bay, WI, BTA173 and Marquette, MI, BTA282 from AT&T Wireless PCS, L.L.C. to TeleCorp PCS, L.L.C.
24. Assignment of WPOI214, a partitioned and disaggregated authorization for Boston-Providence, MTA008, Block A2, from TeleCorp PCS, L.L.C. to AT&T Wireless PCS, L.L.C.

ATTACHMENT A2: AFFILIATE REVENUES

The following provides financial revenue disclosures for the TeleCorp PCS, Inc. and affiliate companies. The disclosures do not include special purpose merger entities that are newly formed (e.g., Black Label Wireless, Inc.); these entities have no and have had no revenues.

TeleCorp Wireless, Inc. (TWI). TWI has a number of direct, and indirect, subsidiaries that have been operated on a consolidated financial basis. Accordingly, the revenues of the following companies are not separately provided to avoid double-counting: TeleCorp Holding Corp., Inc.; TeleCorp PCS, L.L.C.; TeleCorp of Puerto Rico, Inc.; TeleCorp Communications, Inc.; TeleCorp Realty, L.L.C.; TeleCorp Equipment Leasing, L.P.; TeleCorp Limited Holding, Inc.; and, TeleCorp Realty Holdings, Inc.

| | |
|---|---------------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$34,431 |
| <u>1999 gross revenues</u> | <u>\$87,700,000</u> |
| Average gross revenues for the preceding 3 years: | \$29,244,810 |

THC of Tampa, Inc. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

THC of Orlando, Inc. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

THC of Melbourne, Inc. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

THC of Houston, Inc. (Commonly Controlled Affiliate)

| | |
|---------------------|-----|
| 1997 gross revenues | \$0 |
|---------------------|-----|

| | |
|---|-----|
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

THC of San Diego, Inc. (Commonly Controlled Affiliate)

| | |
|---|-----|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

TeleCorp WCS, Inc. (Commonly Controlled Affiliate)

| | |
|---|-----|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

TeleCorp LMDS, Inc. (Commonly Controlled Affiliate)

| | |
|---|-----|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

ABC Wireless, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|-----|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

Viper Wireless, Inc. (Commonly Controlled Affiliate)

| | |
|---|-----|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| 1999 gross revenues | \$0 |
| Average gross revenues for the preceding 3 years: | \$0 |

Indiana Acquisition, L.L.C. (Commonly Controlled Affiliate)

| | |
|---------------------|-----|
| 1997 gross revenues | \$0 |
|---------------------|-----|

| | |
|---|------------|
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Wireless Acquisition LLC (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Royal Wireless, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Arnage Wireless, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

THC of Orlando LMDS, Inc. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Panther Wireless, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Atlantis Bidding Corp. (Commonly Controlled Affiliate).

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Zephyr Wireless, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

TeleCorp Investment Corp, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

TeleCorp Management Corp. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Mid-Atlantic Realty Assoc., L.P. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Mid-Atlantic Realty Assoc., Inc. (Commonly Controlled Affiliate)

| | |
|---|-------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$2,000,000 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$666,667 |

Vento & Co. of NY, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Vento Cable Management, Inc. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Sullivan & Son Leasing Co. L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$300,000</u> |
| Average gross revenues for the preceding 3 years: | \$100,000 |

Energy Advisors, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|-----------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$10,000</u> |
| Average gross revenues for the preceding 3 years: | \$3,334 |

Wireless Lending, L.L.C. (Commonly Controlled Affiliate)

| | |
|---|------------|
| 1997 gross revenues | \$0 |
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$0</u> |
| Average gross revenues for the preceding 3 years: | \$0 |

Tritel, Inc. (Affiliate of the Applicant by Proposed Merger). Tritel, Inc. has a number of direct, and indirect, subsidiaries that operate on a consolidated financial basis. Accordingly, the revenues of the following companies are not separately provided to avoid double-counting: Tritel PCS, Inc.; Tritel Communications, Inc.; Tritel Finance, Inc.; Tritel A/B Holding Corp.; Tritel C/F Holding Corp.; AirCom PCS, Inc.; DigiCall, Inc.; DigiCom, Inc.; QuinCom, Inc.; Tritel License-Florida, Inc.; Tritel License-Georgia, Inc.; Global PCS, Inc.; DigiNet PCS, Inc.; ClearWave, Inc.; and NexCom, Inc.

| | |
|---------------------|-----|
| 1997 gross revenues | \$0 |
|---------------------|-----|

| | |
|---|--------------------|
| 1998 gross revenues | \$0 |
| <u>1999 gross revenues</u> | <u>\$6,759,000</u> |
| Average gross revenues for the preceding 3 years: | \$2,253,000 |

Messrs. Sullivan and Vento also control a number of special purpose shell corporations that have no revenues, including TeleCorp Management Corp. I, L.L.C.; Puerto Rico Acquisition Corp.; Affiliate License Corp.; TeleCorp Acquisition Corp.; Affiliate License Co., L.L.C.; and Sabre Wireless, L.L.C.

Total average gross revenues for the preceding 3 years:

| | |
|-----------------------------------|--------------------|
| TeleCorp Wireless, Inc. | \$29,244,810 |
| Mid-Atlantic Realty Assoc., Inc. | \$666,667 |
| Sullivan & Son Leasing Co. L.L.C. | \$100,000 |
| <u>Tritel, Inc.</u> | <u>\$2,253,000</u> |
| TOTAL: | \$32,264,477 |

Thus, TPI's total average gross revenues for the preceding 3 years is less than the \$40 million threshold for qualifying as a small business.